

Exhibit C

1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

2 Branch 9

3
4 STATE OF WISCONSIN,

5 Plaintiff,

6 vs.

Case No. 04 CV 1709

7 ABBOTT LABORATORIES, et al.,

8
9 Defendants.

10 PROCEEDINGS: Motion Hearing

11 BEFORE: HONORABLE RICHARD G. NIESS

12 DATE: March 10, 2009

13 TIME: 8:49 a.m.

15

16 APPEARANCES: P. JEFFREY ARCHIBALD,
17 Attorney at Law,
18 Madison, Wisconsin,
appearing on behalf
of the Plaintiff.

19

20 CHARLES BARNHILL, JR. and
21 ELIZABETH EBERLE,
Attorneys at Law,
22 Madison, Wisconsin,
appearing on behalf
23 of the Plaintiff.

24

25

COPY

1 APPEARANCES: FRANK D. REMINGTON and
2 (cont'd) THOMAS L. DOSCH,
3 Assistant Attorneys General,
4 Madison, Wisconsin,
5 appearing on behalf
6 of the Plaintiff.
7
8
9
10 TODD G. SMITH,
11 STEVEN M. EDWARDS, and
12 LYNDON M. TRETTER,
13 Attorneys at Law,
14 appearing on behalf of Defendant
15 Bristol-Myers Squibb Company.
16
17
18
19
20
21
22
23
24
25

1 these different models as it did during the Pharmacia
2 trial. If Your Honor thinks we can get two trials,
3 we ought to have the same model going, we can select
4 two brand companies or two generic companies or three
5 or four. There are other trials, multiple defendants
6 going forward. And in fact, BMS was tried with
7 Johnson & Johnson in the MDL. And the judge was able
8 to come to some conclusion about both of them. In
9 Alabama I know they tried two at once, three in June.
10 In Hawaii there's a pending motion to try four at
11 once. Actually finish 16 in a year.

12 THE COURT: Was that a trial to the
13 Court or a jury in Hawaii?

14 MR. BARNHILL: That's a jury. Both
15 Alabama and Hawaii. The Hawaii Court hasn't issued
16 an opinion on this. She's indicated she wants to get
17 them all tried in one year or so. We're trying to
18 figure out a way to do that. That's really our
19 position, Your Honor. It's up to Your Honor. It's
20 obviously discretionary with you. But we would like
21 to move this case along to the extent practicable.
22 And we're willing to do anything to do that which is
23 really what it amounts to. We picked BMS because we
24 felt they were ready for trial. That's really our
25 position, Your Honor.

1 THE COURT: Let me give you my
2 impression. I'm, frankly, not inclined to try more
3 than one defendant at a time. I thought that while
4 the presentations were excellent on both sides in the
5 Pharmacia case, Counsel was efficient, Counsel was
6 solicitous to the jury's naivete in the whole thing.
7 And I don't mean in a smarmy way. I mean you were
8 actually educating the jury as you went along. I
9 thought they were presented with a ton of information
10 in a short period of time. They obviously -- well,
11 not obviously, I think they absorbed a lot of it. I
12 don't know that they could have taken anything more
13 than what we did. And I think we face a real problem
14 with jury confusion by combining them. I don't think
15 there are any shortcuts here. I think -- I can give
16 you more than one trial date a year now knowing that
17 we're dealing with two to perhaps three-week trials
18 rather than a month to six weeks for each one of
19 , them. That was very helpful.

20 I am concerned about the different
21 models. I'm concerned about, for example, in the
22 Pharmacia case there were some documents that were
23 from Pharmacia that were -- without getting too much
24 specifically into the case, they were like the Ford
25 Pinto document. I don't want the industry to be

1 painted with one broad brush even though I'm sure the
2 plaintiff views them as perhaps equally culpable or
3 at least culpable to some degree.

4 I think every defendant needs to start
5 with a fresh start. I'm more than happy to give you,
6 as I say, more than one trial date in the year now
7 that we know how much time is available. But I am
8 not inclined to combine them because of the -- I just
9 think you folks did as good a job as possible with
10 the amount of information you had. And to just throw
11 anything more on here is just going to overwhelm the
12 jury. I'm not so sure that we would be able to do it
13 in the two-week period. We'd have to do it in
14 perhaps three weeks. I don't know how much time
15 saving you're actually going to have. I'm hopeful
16 that with a couple of these trials we'll get some
17 sort of a pattern as to what the state of Wisconsin
18 juries seem to think about these things. And maybe
19 that will spur on resolution outside the courtroom.

20 In any event, that's my initial
21 impression. Notwithstanding your eloquent arguments
22 to the contrary, Mr. Barnhill, at this point I'm not
23 inclined to combine anybody.

24 MR. BARNHILL: Fine, Your Honor.

25 THE COURT: You're welcome to address

1 that.

2 I think you at least won that part,

3 Mr. Shott. As one of my law professors told me on

4 the first week of law school, when the judge is

5 arguing the case, keep your mouth shut.

6 MR. SCHOTT: I'm nodding my head, Your

7 Honor.

8 THE COURT: Thank you.

9 Let's pick the next defendant. If it's

10 not -- is Johnson & Johnson next in the bullpen?

11 MR. BARNHILL: Yes, Your Honor.

12 THE COURT: Is there any problem with

13 that, Mr. Shott? You looked pretty eager to go while

14 you were in the courtroom a couple weeks ago.

15 Are we thinking the trial schedule is

16 going to be similar to what you saw with Pharmacia?

17 Are you both brand and generic? Is there a

18 difference in the number of experts? Is there

19 anything significantly different in how the case is

20 going to be tried that you're going to need more than

21 two weeks?

22 MR. SCHOTT: I'm going to let Mr. Mangi

23 respond to those questions, Your Honor.

24 THE COURT: Mr. Mangi.

25 MR. MANGI: Thank you, Your Honor. Your